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Supreme Court of the United States

October Term, 1974

No. 74-551

H. CLIFFORD LEE, *et al.*,
Petitioners,

vs.

HERSCHEL S. ARROWOOD, *et al.*,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

PETITION FOR REHEARING

THOMAS V. KOYKKA
ARTER & HADDEN
1144 Union Commerce Building
Cleveland, Ohio 44115

SIDNEY S. FEINBERG
ROBINS, DAVIS & LYONS
33 South Fifth Street
Minneapolis, Minnesota 55402

EDWARD C. ADKINS
CARLTON, FIELDS, WARD, EMMANUEL,
SMITH & CUTLER, P.A.
Exchange National Bank Building
Tampa, Florida 33602
Counsel for Petitioners

January 27, 1975

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Petitioners seek rehearing of this Court's denial of certiorari and in support thereof say:

1. An intervening event of substantial and controlling effect which was not before the Court when it denied certiorari has occurred. Respondents, in opposing certiorari, relied upon the decision of the Minnesota Supreme Court in the companion case of *Lee v. Arrowood* decided November 22, 1974. That decision rests upon a massive denial of due process identified in the petition for certiorari petitioners are filing concurrently herewith.

2. The two cases present opposite sides of the same coin, *viz:*

The Eighth Circuit case involves a widow's right *to recover damages* for breach by respondents of the contract by which they induced her to give up her right to renounce her husband's will. The Eighth Circuit dismissed on the ground the federal court should abstain jurisdiction pending completion of proceedings then pending in state court.

The Minnesota Supreme Court case involved the widow's right *to be restored to her right to renounce* on the ground she was tricked into giving up her statutory right to renounce. The Minnesota Supreme Court, overlooking the requirements of due process, held the widow's right to renounce barred by a prior state court judgment.

3. Grant of rehearing in this cause will enable the Court to have *both* cases before it in considering whether it can sanction the flagrant disregard of the demands of due process that has occurred.

Respectfully submitted,

THOMAS V. KOYKKA
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Certificate of Counsel

I, THOMAS V. KOYKKA, counsel for petitioners, certify that this petition for rehearing is presented in good faith and not for delay and that it brings to the Court's attention an intervening event of substantial and controlling effect and is limited thereto.

THOMAS V. KOYKKA
Counsel for Petitioners